

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL MALIK ALLAH,	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 04-1167
	)	
LOUIS FOLINO, et al.,	)	
Defendants.	)	

MEMORANDUM and ORDER

Conti, D.J.

Michael Malik Allah, an inmate at the State Correctional Institution at Greene, has filed two appeals from Order of the Magistrate Judge who is supervising this litigation. At Docket No. 54 he appeals from the Orders of the Magistrate Judge which required him to pay the costs of service on forty-three defendants, and at Docket No. 55 he appeals the Order of the Magistrate Judge denying his request that service on those defendants be made at their expense.

The plaintiff in this case is a frequent litigator in this Court who has abused the privilege of proceeding in forma pauperis barring the existence of an emergency situation. 28 U.S.C. 1915(g). Having determined that the issues which he seeks to raise in this litigation are not of an emergency nature he has been denied leave to proceed in forma pauperis.<sup>1</sup>

When the plaintiff's improper attempts to serve the numerous defendants resulted in a quashing of that service<sup>2</sup>, the Magistrate Judge Ordered and this Court affirmed, that proper

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<sup>1</sup> See: Docket Entry Nos. 2 and 4. Further worthy of note is that the United States Court of Appeals for the Third Circuit also denied the plaintiff's request for leave to proceed in forma pauperis on appeal from Orders of this Court. See: Docket Entry No. 26.

<sup>2</sup> See: Docket Entry No. 44.

service be made by the United States Marshal at the expense of the plaintiff. However, in an effort to minimize costs, that service was authorized to be made by mail with a request for a waiver of personal service. Rule 4(d), F.R.Civ.P.<sup>3</sup> We would be remiss if we failed to note that although the plaintiff sought to commence this action in August 2004, after the expiration of approximately sixteen months, he has failed to effectuate service on the defendants.<sup>4</sup>

Because the plaintiff is unable to effectuate proper service, it is necessary that it be made by the United States Marshal who has been directed to do so by the most cost effective means. For this reason, the Magistrate Judge did not abuse his discretion in entering the Orders from which the plaintiff here appeals, and his appeals will be denied.

An appropriate Order shall be entered.

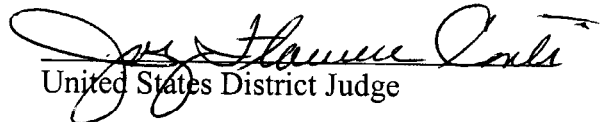
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<sup>3</sup> See: Docket entry Nos. 9,11,15,13,17 and 46.

<sup>4</sup> Rule 4(m), F.R.Civ.P. provides in part that “if service ... is not made upon a defendant within 120 days after the filing of the complaint, the court ... shall dismiss the action without prejudice...”

ORDER

AND NOW, this 30<sup>th</sup> day of November, 2005, for the reasons set forth in the foregoing Memorandum, the plaintiff's appeals from the Orders of the United States Magistrate Judge Docketed at Nos. 54 and 55 are DENIED.

  
United States District Judge